

kjBEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	DOCKET NO. 17133 & 16893
)	
[REDACTED],)	DECISION
)	
Petitioner.)	
_____)	

On July 26, 2002, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted], proposing income tax, penalty, and interest for taxable years 1998 and 1999 in the amount of \$1,818.

[Redacted] (taxpayer) filed a timely appeal. She did not request a hearing and did not submit additional information. The Tax Commission, having reviewed the file, hereby issues its decision based upon the information contained in the file.

Tax Commission records showed [Redacted] met the state income tax filing requirements but had not filed Idaho returns for 1998 and 1999. When the Bureau received no response to inquiries, a deficiency notice was issued.

The taxpayer appealed the determination explaining that she and [Redacted] had separated in early 1999. She said she was sure she filed a 1999 return with a filing status of married filing separate. She added that during 1998 [Redacted] was self-employed and she did not work. Therefore, the taxpayer felt the responsibility for filing the 1998 tax returns was his, and he, not she, should be held responsible for the tax.

The Bureau requested and received a transcript of both [Redacted] and the taxpayer's Internal Revenue Service (IRS) records. The information was provided in accordance with Internal Revenue Code § 6103(d) and Idaho Code § 63-3077.

The Bureau found the taxpayer had filed a federal income tax return for 1999 with a filing status of married filing separate. No return was found for 1998. Because Idaho income tax code requires the same filing status to be used in the preparation of Idaho income tax returns as used to prepare federal returns, the Bureau sent [Redacted] and the taxpayer each a corrected notice deleting tax year 1999. The determination for 1998 remained unchanged from the first notice.

In addition, the Bureau issued a Notice of Deficiency Determination dated December 3, 2002, to just the taxpayer, proposing tax, penalty, and interest in the amount of \$522 for 1999. The tax amount was determined using only the taxpayer's sole and separate income and a filing status of married filing separate. The taxpayer appealed once again. She said she is in financial ruin and unable to pay any amount. She said she had been unsuccessful in locating a W-2 to determine additional withholding.

The taxpayer's file was transferred to the Legal/Tax Policy Division for administrative review. Subsequently, the taxpayer telephoned the Tax Appeals Specialist. She provided a copy of the information used to prepare her 1999 federal return but did not send information pertaining to 1998. She admitted that it was likely she was responsible for some taxes to Idaho for 1999 because her federal return had been filed but a copy of the state return could not be located. She still expressed doubt because she was so sure she had filed a state return.

In the taxpayer's initial letter, she expressed her opinion that income taxes for tax year 1998 should not be her responsibility because she was not employed outside the home. She said [Redacted] alone should be responsible to pay the tax on his 1998 income. However, Idaho tax codes do not support the taxpayer's position. Idaho is a community property state, which means income received by either a husband or a wife is their community income. Although the taxpayer

did not receive income as wages to her, she benefited from [Redacted] income. The income tax responsibility on that income is their joint obligation.

The Tax Commission has no record of the taxpayer's 1998 or 1999 Idaho income tax returns. The taxpayer has submitted nothing that would cast doubt on the Bureau's determination that was calculated on the couple's 1998 joint income and the wages the taxpayer received as her sole and separate income in 1999 when she no longer lived with [Redacted]. The records retained by the IRS and Idaho Department of Labor identified the sources and amounts of income.

A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Com'n, 110 Idaho 572 (Ct. App. 1986). Having presented no information in support of her argument, the taxpayer has failed to meet her burden of proving error on the part of the deficiency determinations. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

Because the taxpayer did not make the election to file a married filing joint return with her husband for 1998, the Tax Commission will not make that decision for her. The Notice of Deficiency Determination is amended to reflect a filing status of married filing separate to compute the taxpayer's Idaho income tax responsibility on her share of the 1998 community income.

WHEREFORE, the Notice of Deficiency Determination dated July 26, 2002, is MODIFIED and, as so modified, is hereby APPROVED, AFFIRMED, AND MADE FINAL. The Notice of Deficiency Determination dated December 3, 2002, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty, and interest.

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1998	\$501	\$125	\$158	\$ 784
1999	357	89	87	<u>533</u>
			TOTAL	\$1,317

Interest is computed through September 15, 2003.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of taxpayer's right to appeal this decision is enclosed with this decision.

DATED this _____ day of _____, 2003.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that I have on this _____ day of _____, 2003, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted] [REDACTED] Receipt No.
[Redacted] _____